

MINUTES

Tennessee Board of Examiners for Land Surveyors

The Tennessee Board of Examiners for Land Surveyors met on Wednesday, January 13, 2010 at 12:00 p.m. in the 2nd Floor Conference Room of the Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN.

WEDNESDAY, JANUARY 13, 2010 –

Those present were: Jackie Dillehay, Chairman; Tim Lingerfelt, Vice-Chairman; Sue Braly, Board Member; David Cagle, Board Member; Robert Herndon, Attorney for the Board; Laura Betty, Litigation Attorney for the Board; Susan Lockhart, Executive Administrative Assistant; and Donna Moulder, Administrative Director for the board.

The meeting was called to order at 12:10 p.m. by Chairman Dillehay.

The agenda was then reviewed. Ms. Braly then made a motion to accept the agenda as amended. Mr. Lingerfelt seconded the motion. The motion carried unopposed.

The minutes of the previous meeting were then reviewed. Mr. Lingerfelt made a motion to accept the minutes as read. Mr. Cagle seconded the motion. The motion carried unopposed.

Chairman Dillehay inquired as to whether or not the Consent Order for Coast to Coast had been prepared. Mr. Herndon advised that he would check on its status.

Mr. Herndon then presented the following Legal Report:

Complaint #2008020821 – Chairman Dillehay previously reviewed this complaint and reported his findings and recommendations to the board. Mr. Lingerfelt made a motion to request the Respondent to participate in an informal conference to obtain additional information for the board's consideration. Mr. Cagle seconded the motion. The motion carried unopposed.

Mr. Herndon then introduced Laura Betty to the board. Ms. Betty will be serving as a Litigation Attorney for several programs including the Board of Examiners for Land Surveyors.

Complaint #2008025261 – Chairman Dillehay previously reviewed this complaint and reported his findings and recommendations to the board. Mr. Cagle made a motion for a Consent Order with a civil penalty of \$500; require the Respondent to complete a Standards Practice course at least four hours in length; and submit five plats for review to ensure competency. Mr. Lingerfelt seconded the motion. The motion carried unanimously.

Chairman Dillehay also recommended that a complaint be opened regarding the plats submitted by the Complainant that were prepared by a land surveyor other than the Respondent. He advised that he has several concerns regarding the boundary calculations, more specifically those related to a meandering bluff. Mr. Lingerfelt made a motion to open a complaint against the land surveyor that created the plat in question. Mr. Cagle seconded the motion. The motion carried unopposed.

Complaint #2009007791 – Chairman Dillehay previously reviewed this complaint and reported his findings and recommendations to the board. Mr. Cagle made a motion to request an informal conference with the Complainant and Respondent separately to obtain more information for the board's consideration. Mr. Lingerfelt seconded the motion. The motion carried unopposed.

Complaint #2009006541 – Mr. Herndon introduced this complaint to the board. After some discussion, Mr. Cagle made the motion to assign the complaint to Chairman Dillehay for review and ask that he report his findings at the next meeting. Mr. Lingerfelt seconded the motion. The motion carried unopposed.

Complaint #2009011701 – Mr. Herndon introduced this complaint to the board. After some discussion, Ms. Braly made a motion to assign the complaint to Mr. Cagle for review and ask that he report his findings at the next meeting. Mr. Lingerfelt seconded the motion. The motion carried unopposed.

Complaint #2009016271 – Mr. Herndon introduced this complaint to the board. After some discussion, Ms. Braly made a motion to assign the complaint to Chairman Dillehay and ask that he report his findings at the next meeting. Mr. Lingerfelt seconded the motion. The motion carried unopposed.

Complaint #2009017871 – Mr. Herndon introduced this complaint to the board. After some discussion, Mr. Lingerfelt made a motion to assign the complaint to Mr. Cagle and ask that he report his findings at the next meeting. Ms. Braly seconded the motion. The motion carried unopposed.

Complaint #2009020551 – Mr. Herndon introduced this complaint to the board. After some discussion, Ms. Braly made a motion to assign the complaint to Mr. Lingerfelt and ask that he report his findings at the next meeting. Mr. Cagle seconded the motion. The motion carried unopposed.

Complaints #2009021121 and #2009021122 – Mr. Herndon introduced these complaints to the board. After some discussion, Ms. Braly made a motion to assign the complaints to Mr. Cagle for review and ask that he report his findings at the next meeting. Mr. Lingerfelt seconded the motion. The motion carried unopposed.

Complaint #2009021171 – Mr. Herndon introduced this complaint to the board. After some discussion, Mr. Lingerfelt made a motion to assign the complaint to Chairman Dillehay for review and ask that he report his findings at the next meeting. Mr. Cagle seconded the motion. The motion carried unopposed.

Complaint #2009024651 – Mr. Herndon introduced this complaint to the board. After some discussion, Mr. Lingerfelt made a motion to assign the complaint to Chairman Dillehay for review and ask that he report his findings at the next meeting. Ms. Braly seconded the motion. The motion carried unopposed.

Complaint #2009000571 – Mr. Herndon introduced this complaint to the board. Mr. Lingerfelt made a motion to revoke the Respondent's license and not allow him to reapply for licensure for a period of ten (10) years. The motion was seconded by Ms. Braly. After some discussion, the motion was amended to issue a Consent Order to revoke the Respondent's license until he notifies the Board in writing that he has completed his sentence and is applying for a new license. Ms. Braly made a motion to approve the amended motion. The motion was seconded by Mr. Lingerfelt. The motion carried unopposed.

Complaint #2007059911 – Mr. Herndon reintroduced this complaint to the board. Mr. Lingerfelt reviewed this complaint and reported his findings and recommendations to the board. After some discussion, Mr. Lingerfelt made a motion to issue a letter of reprimand to the Respondent including a Consent Order for \$1000 civil penalty and require the Respondent to complete a two (2) hour minimum course on Ethics. Mr. Cagle seconded the motion. The motion carried unopposed.

NEW BUSINESS:

Ms. Moulder presented new Conflict of Interest Statements for each board member to sign. These statements were all signed and submitted.

Frank Palumbo's application was presented by Ms. Moulder for review. After some discussion, Mr. Cagle made a motion to issue a license upon proof that Mr. Palumbo has completed thirty (30) hours of continuing education after January 1, 2009. The motion was seconded by Mr. Lingerfelt. The motion carried unopposed.

Robert Hood's continuing education was presented by Ms. Moulder for review. After some discussion, Mr. Cagle made a motion to accept the continuing education submitted by Mr. Hood and to reinstate his license upon all other requirements having been met. Ms. Braly seconded the motion. The motion carried unopposed.

A letter received by the board from Robert Crabtree was reviewed. Ms. Moulder was asked to advise Mr. Crabtree that this matter cannot be addressed by the board and recommend that he contact his legislator(s).

A letter received by the board from Joey Lawson was reviewed. The board advised that a registrant supervisor does so at his/her own discretion and must be willing to certify that a person has performed the work under their direct supervision.

Letters received by the board regarding the new continuing education guidelines were reviewed. After some discussion, Mr. Lingerfelt recommended that the board wait one (1) calendar year and revisit their discussion on the new guidelines so they will have a better idea of the impact they have had on the licensees. The board agreed.

A letter received by the board from Jeremiah Davis was reviewed. After some discussion, Mr. Lingerfelt made a motion to allow Mr. Davis to sit for the PLSIT exam in April 2010. Mr. Cagle seconded the motion. The motion carried unopposed.

Ms. Moulder presented the PLSIT wall certificates for the members' signatures. These were signed and returned to Ms. Moulder.

Ms. Moulder advised the board that she did not have a current budget report to share at this time and that she would contact the department's fiscal office to see if she could obtain one.

The board expressed the need to participate in the April 2010 Southern Zone Meeting. Ms. Lockhart advised that the department is currently under an "out of state travel freeze", however the board can submit a request. The board asked Ms. Moulder to submit a request to allow Chairman Dillehay and Mr. Lingerfelt attend the meeting.

Ms. Moulder presented a draft of the board's newsletter for approval. The board advised that they would like to include the 2009 disciplinary actions in addition to the information presented.

Chairman Dillehay advised the board that he and Ms. Moulder recently attended a legislative sub-committee meeting regarding the complaint process for the Division of Regulatory Boards. He further advised that the Division is revisiting

their standard operating procedures as they are currently operating within the time frames required.

Mr. Herndon submitted a proposed Notice of Rule Making Hearing for the board's approval. He recommended that the board only address Chapter 3 at this time as he expects the discussions to be lengthy. After some discussion, Mr. Cagle made a motion to approve the notice. Ms Braly seconded the motion. The motion carried unopposed.

Chairman Dillehay requested the status of all of the open complaints for the board. Mr. Herndon advised that he and Ms. Moulder are currently working to update the complaint information on file to obtain accurate statistics.

Ms. Moulder advised that she is not aware of the current status of online renewals but understands that it is still in process.

The next meeting was scheduled for February 24, 2010 at 10:00 a.m. to review applications.

There being no further business, the meeting was adjourned at 4:20 p.m..

THURSDAY, JANUARY 14, 2010 –

The Tennessee Board of Examiners for Land Surveyors met on Thursday, January 14, 2010 at 9:00 a.m. in the 3rd Floor Conference Room of the Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN.

Those present were: Jackie Dillehay, Chairman; Tim Lingerfelt, Vice-Chairman; Sue Braly, Board Member; David Cagle, Board Member; Robert Herndon, Attorney for the Board; Laura Betty, Litigation Attorney for the Board; Susan Lockhart, Executive Administrative Assistant; and Donna Moulder, Administrative Director for the board.

The meeting was called to order at 9:05 a.m. by Chairman Dillehay.

Mr. Donald Van Hook appeared before the board to request that his application for licensure be reconsidered under Category B. After clarifying his experience in working with boundaries on a large scale with reference to roadway corridors, Mr. Lingerfelt made a motion to allow Mr. Van Hook to sit for the April 2010 examination. The motion was seconded by Mr. Cagle. The motion carried unopposed.

Mr. Jared Knight appeared before the board to inquire as to whether or not an online college course for land surveying would be accepted. The board advised

that it would be accepted as long as official transcripts are submitted and a syllabus is available if necessary.

The October 2009 examination scores were presented by Ms. Moulder for the board's review. Per Chairman Dillehay's request, Ms. Moulder also provided statistics regarding several previous examinations to determine how many did or did not pass based on scoring by a curve. Chairman Dillehay asked the board to consider whether to score the exams based on a curve or to use scores as seventy (70) and above as passing. Mr. Braly made a motion to make it a policy to only accept scores of seventy (70) and above as passing. The motion was seconded by Mr. Lingerfelt. The motion carried unopposed.

Ms. Moulder inquired as to the agenda for the February 2010 meeting. It was determined that the only business to be discussed at this meeting would be applications.

Ms. Moulder advised the board that an applicant applied to take the test on a few occasions but failed to appear each time due to illness. The board asked Ms. Moulder to bring the applicant's paperwork to the February meeting for their review.

After reviewing the exam scores, Ms. Moulder advised that fourteen (14) applicants have completed the necessary requirements and will be issued licenses. The exam pass rate for October based on scores of seventy (70) and above is 31.8%.

Complaint #2009011701 – Mr. Cagle reviewed the complaint overnight and reported his findings to the board. He recommended that the board obtain copies of the plat that the Complainant claims has additional information to determine the differences in the plat submitted. Mr. Cagle made a motion to send a letter of warning to the Respondent for failure to respond including a request to cease and desist from performing work without a license land surveyor on staff. Ms. Braly seconded the motion. The motion carried by a vote of two (2) to one (1) [Braly-yes; Cagle-yes; and Lingerfelt-no].

Patty Williams appeared before the board to ask that her continuing education for 2008 be accepted. As a new applicant, she was not required to submit continuing education for 2008 although she did complete some hours that she would like credit for. The board advised her to submit the appropriate forms to Ms. Moulder reporting the number of hours that she completed and request that they be applied to her requirements for 2009. Ms. Moulder advised that she would get the appropriate form to Ms. Williams for completion.

Complaint #2009006541 – Mr. Lingerfelt reviewed the complaint overnight and reported his findings to the board. Mr. Lingerfelt made a motion to send a letter of warning stating cease and desist letter to the Respondent stating that the

board has reviewed their file and it appears their work may meet the definition of a land surveyor. The motion was seconded by Mr. Cagle. The motion carried unopposed.

Complaint #2009020551 – Mr. Lingerfelt reviewed the complaint overnight and reported his findings to the board. Mr. Lingerfelt made a motion to dismiss the complaint with a letter of explanation to the Complainant stating the he did not submit documents relevant to the original complaint. The motion was seconded by Ms. Braly. The motion carried unopposed.

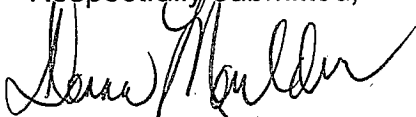
Complaint #2008015761 – Mr. Dillehay reviewed this complaint overnight and reported his findings to the board. Mr. Lingerfelt made a motion to reissue a Consent Order for \$500. Mr. Cagle seconded the motion. The motion carried unopposed.

Chairman Dillehay cautioned the board not to accept calls from this or any Respondent regarding a complaint.

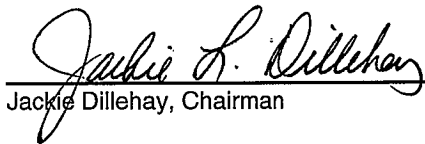
Complaints #2009021121 and #2009021122 – Mr. Cagle reviewed these related complaints overnight and advised that he needs more time to review the plats to determine if there appears to be any misconduct.

There being no further business, the meeting adjourned at 11:30 a.m.

Respectfully submitted,



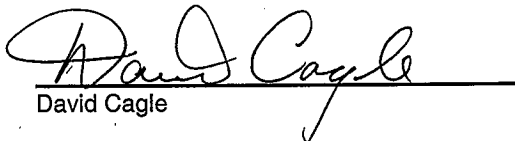
Donna Moulder
Administrative Director



Jackie Dillehay, Chairman



Tim Lingerfelt, Vice-Chairman



David Cagle



Sue Braly